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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Al Zofchak, et al.
Filed : February 27, 2007
Serial No. : 10/578,974
For : Ethoxylated Polyurethane Viscosity Enhancers

Group Art Unit : 1628
Examiner : Sabiah N. Qazi

Mail Stop: Non-fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia, 22313-1450

**Election of Invention in Response
to Restriction Requirement**

In response to the Examiner's correspondence dated September 7, 2010, pursuant to the Examiner's restriction requirement in the above-referenced patent application, Applicants provisionally elect with traverse to prosecute the invention of group I, namely claims 21-24, 29, 30, 33-36 and 39 which are drawn to a fatty ethoxylated dimeric urethane compound of claim 1 and their compositions. Applicants further elect with traverse to prosecute a species comprising a composition which is a shampoo or body wash comprising a urethane of claim 21 and water and further comprising at least one component selected from a surfactant, a coloring agent, a humectant, a moisturizing agent, a preservative and mixtures thereof.

Notwithstanding Applicants' election, Applicants respectfully traverse the Examiner's requirement for restriction. Applicants respectfully request that the Examiner reconsider her restriction requirement regarding the election of the inventions and examine all claims in groups I and II in the present application. Applicants respectfully submit that prosecution of all of the claims in groups I and II, namely claims 21-39, are appropriate and will allow the Examiner to examine the entire application in one prosecution without subjecting Applicants to an undue burden as discussed hereinbelow. This is especially true, given the fact that all claims in the

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present application have already been subject to examination during the international application phase and there the Examiner (who was from the United States Patent Office) found unity of invention (i.e., there was no need to construe the claims as being directed to more than a single invention group for purposes of examination for all of the claims which were part of the original PCT application) and allowability of all of the originally filed claims.

In addition to the above reason, Applicants respectfully submit that examining all of the claims present pending in the present application does not create a burden which necessitates restriction. According to M.P.E.P. §803, restriction by the Examiner of patentably distinct inventions is proper if the claimed inventions are independent and a *serious burden* would be placed on the Examiner if restriction was not required. Applicants respectfully submit that the presentation of the amended claims would not place such a serious burden on the Examiner as to require restriction. All of the originally restricted claims of the present invention are directed to related, though patentably distinct compositions which would not impose a heavy burden of examination on the part of the Examiner. This is especially true, where, as here, the application has already been examined (in the international phase) and found to have *unity of invention*.

Thus, it is Applicants' view that any search the Examiner would need to conduct in examining the instant application of all the claims would not be unduly burdensome, and in fact, would, by some measure, be duplicative of efforts already performed in the international phase. That would not be to say that the examination would not be rigorous or time-consuming, but that such effort would not meet the burden requirements of MPEP§803 in order to impose restriction, especially in light of the examination which occurred during the international phase. It is noted here, as well, that Examiner J. Venkat, Ph.D. from the United States patent office has already found the originally filed PCT application claims allowable (i.e., she considered the claims novel and exhibiting an inventive step). Moreover, the examination of all of the claims of groups I and II of the instant application would not place such a serious burden on the Examiner as to require restriction, especially in light of the administrative efficiency gained by doing all of the claims at

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the same time, especially given the close relationship of the subject matter.

Applicants understand the general policy considerations for the Patent Office's requirement for restriction in certain instances. In this instance, however, those considerations do not weigh in favor of restricting the inventions here. In determining the appropriateness of restriction, one must also consider the countervailing consideration that, in each instance, Applicants wish the Patent Office examine their patent application with a certain degree of "administrative efficiency" and wish to have patent claims issue which reflect the breadth of their invention.

Applicants respectfully submit that pending claims 21-39 found in invention groups I and II are sufficiently narrow to allow the Examiner to determine patentability without being subjected to the serious burden referred to in M.P.E.P. §803, especially given the previous examination of these claims during the international phase. Consequently, Applicant respectfully requests that the Examiner withdraw the restriction requirement in its entirety and examination presently pending claims 21-39 in the present application.

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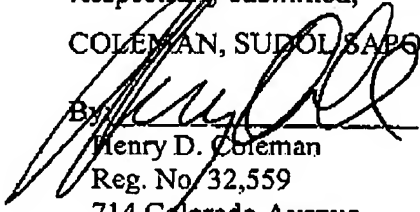
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The Examiner is cordially requested to call the undersigned attorney if the Examiner believes that a telephonic discussion may materially advance the prosecution of the instant application in any way. No fee is due for the presentation of the instant paper. The Commissioner is authorized to charge any deficiency in the fee or to credit any overpayment to deposit account 04-0838.

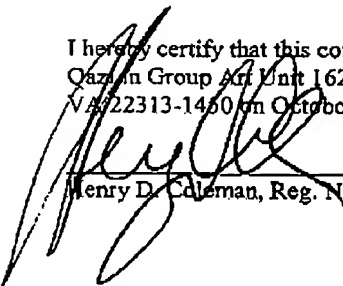
Respectfully submitted,
COLEMAN, SUDOL SAPONE, P.C.

By: 
Henry D. Coleman
Reg. No. 32,559
714 Colorado Avenue
Bridgeport, Connecticut
(203) 366-3560

Dated: October 25, 2010

Certificate of Facsimile Transmission

I hereby certify that this correspondence is being sent by Facsimile Transmission to Examiner Sabiha Naim Qazi, in Group A, Unit 1628 of the United States Patent and Trademark Office, P.O. Box 1450 Alexandria, VA 22313-1450 on October 25, 2010.


Henry D. Coleman, Reg. No. 32,559

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